

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 2, 2009

No. 08-60390
Summary Calendar

Charles R. Fulbruge III
Clerk

ALEX TITO BENITEZ, also known as Alex Tito Benitez Pineda

Petitioner

v.

ERIC H HOLDER, JR, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A94 366 262

Before HIGGINBOTHAM, BARKSDALE and ELROD, Circuit Judges.

PER CURIAM:*

Alex Tito Benitez, a native and citizen of El Salvador, has petitioned this court for review of the Board of Immigration Appeals' (BIA's) order rejecting, as untimely, his appeal of the immigration judge's removal decision. He argues that the BIA erred by declining to accept "jurisdiction by certification," of his untimely appeal, as provided in 8 C.F.R. § 1003.1(c). The Respondent argues that this court lacks jurisdiction to review the decision of the BIA because it was

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

purely discretionary and this court has no legal standard by which to review the ruling.

We do not decide the jurisdictional issue presented herein because even assuming that jurisdiction exists, Benitez has not adequately briefed his argument that the BIA erred in finding no extraordinary circumstances warranting an untimely appeal. Accordingly, the argument is deemed abandoned. *See Soadjede v. Ashcroft*, 324 F.3d 830, 833 (5th Cir. 2003); *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

PETITION DENIED.